

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks and submissions herewith, which place the application into condition for allowance.

Claims 12, 13, 15-24, 28-51 and 54-66 are pending in this application. Page 5 of the Amendment filed on June 12, 2003 (paper #18) erroneously stated that “claims 25, 26, 51, 52, 67 and 68” were cancelled. It should have instead stated that claims 25, 26, 52, 53, 67 and 68 were cancelled. The correct status of claim 51 was indicated on page 4 of paper #18, *i.e.* that it was amended and is pending. Applicants regret any confusion created by this error.

Claims 12, 15-24, 28-35, 37, 39, 40, 42-51 and 54-66 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Poet *et al.* and Meehan *et al.* in view of Nabel *et al.* Claims 13, 18-24, 37, 39, 41, 45-51, 65 and 66 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Poet *et al.* and Meehan *et al.* in view of Mathiowitz *et al.* These rejections are traversed and will be addressed collectively.

The Examiner’s attention is directed to the attached Katz Declaration, which attests to the fact that the authors of Meehan *et al.* and the inventors of the present application are not “others” with respect to one another under the requirements of 35 U.S.C. §§102(a) and 102(e). Rather, these parties have worked together on certain aspects of PCV-2. The inventorship of the instant application reflects the currently claimed subject matter, but as the Katz Declaration states, these parties are co-inventors on other issued patents and pending applications wherein different embodiments are claimed. As such, Meehan *et al.* is not a proper prior art reference under Sections 102(a) or 102(e). Moreover, as Meehan *et al.* was published in September, 1998, less than one year before the priority date of June 10, 1999 of the present application, it is not a proper prior art reference under Section 102(b).

Since none of Poet *et al.*, Nabel *et al.* or Mathiowitz *et al.* teach, suggest or enable any sequence of PCV-2, let alone immunogenic compositions comprising PCV-2 or methods of enhancing a host immune response to PCV-2, they cannot render the current claims obvious, alone or in any combination. Consequently, reconsideration and withdrawal of the rejections under 35 U.S.C. §103 are requested.

CONCLUSION

Applicants believe that the application is in condition for allowance, and favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. Alternatively, consideration and entry of this paper are requested, as it places this application into better condition for purposes of appeal.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: Anne-Marie C. Yvon
Thomas J. Kowalski,
Reg. No. 32,147
Anne-Marie C. Yvon, Ph.D.
Reg. No. 52,390
Tel (212) 588-0800
Fax (212) 588-0500